

or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 4610 of this title.

(Pub. L. 98-590, § 10, Oct. 30, 1984, 98 Stat. 3121.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4610a of this title.

§ 4610. Enforcement

(a) District courts; jurisdiction; Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation issued under this chapter. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General violations of this chapter whenever the Secretary believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsection (b) of this section or suitable written notice or warning to any person committing such violations.

(b) Civil penalties; notice and hearing; review; courts of appeals; cease and desist orders; failure to obey; Attorney General

(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and

desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2) of not more than \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Pub. L. 98-590, § 11, Oct. 30, 1984, 98 Stat. 3122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4609, 4610a of this title.

§ 4610a. Investigations and power to subpoena

(a) In general

The Secretary may make such investigations as the Secretary determines necessary—

(1) for the effective administration of this chapter; or

(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this chapter, or of any order, rule, or regulation issued under this chapter.

(b) Power to subpoena

(1) Investigations

For the purpose of an investigation made under subsection (a) of this section, the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 4609 or 4610 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena wit-

nesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b) of this section. The court may issue an order requiring such person to comply with such a subpoena.

(d) Contempt

Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Process

Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) Hearing site

The site of any hearings held under section 4609 or 4610 of this title shall be within the judicial district where such person resides or has a principal place of business.

(Pub. L. 98-590, §11A, as added Pub. L. 101-624, title XIX, §1986, Nov. 28, 1990, 104 Stat. 3908; amended Pub. L. 102-237, title VIII, §807(2), Dec. 13, 1991, 105 Stat. 1883.)

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102-237 struck out “section” after “4609 or”.

§ 4611. Requirements of referendum

For the purpose of ascertaining whether issuance of an order is approved or favored by producers and importers, the Secretary shall conduct a referendum among those producers and importers not exempt under section 4606(e)(2) of this title who, during a representative period determined by the Secretary, have been engaged in the production and importation of honey. No order issued pursuant to this chapter shall be effective unless the Secretary determines that the issuance of such an order is approved or favored by not less than two-thirds of the producers and importers voting in such referendum or by a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the honey produced and imported during the representative period. The ballots and other information or reports which reveal, or tend to reveal, the vote of any producer or importer of honey shall be held strictly confidential and shall not be disclosed.

(Pub. L. 98-590, §12, Oct. 30, 1984, 98 Stat. 3123.)

§ 4612. Suspension and termination

(a) Authority of Secretary

Whenever the Secretary finds that any order issued under this chapter, or any provisions

thereof, obstructs or does not tend to effectuate the declared purpose of this chapter, the Secretary shall terminate or suspend the operation of such order or such provisions thereof.

(b) Referendum; time for conducting by Secretary; alternate referendum conducted by Secretary

(1) Except as otherwise provided in paragraph (2), five years from the date on which the Secretary issues an order authorizing the collection of assessments on honey under provisions of this chapter, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the termination or suspension of the order.

(2)(A) In lieu of the first referendum otherwise required to be conducted under paragraph (1) for the order in effect on November 28, 1990, the Secretary shall conduct a referendum to determine if honey producers and importers favor—

(i) the continuation of the order; and

(ii) termination of the authority for producers and importers to obtain a refund of assessments under section 4608(h)(1) of this title.

The referendum shall be conducted at the time the first referendum otherwise required under paragraph (1) would have been conducted, except for the operation of this paragraph.

(B)(i) The Secretary shall terminate such order at the end of the marketing year during which such referendum is conducted, if the Secretary determines that termination of the order is approved or favored by not less than a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

(ii) If the Secretary determines that termination of the authority for producers and importers to receive refunds of assessments under section 4608(h)(1) of this title is favored or approved by a majority of the producers and importers voting in such referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum, then the Secretary shall amend such order as necessary to reflect the vote of producers and importers. Such amendment to the order shall become effective on the date it is issued, but in no case more than 180 days after the conduct of such referendum.

(c) Honey Board; referendum; request

The Secretary shall hold a referendum on the request of the Honey Board or when petitioned by 10 per centum or more of the honey producers and importers to determine if the honey producers and importers favor termination or suspension of the order.

(d) Marketing year; termination or suspension at end of

The Secretary shall terminate or suspend an order at the end of the marketing year in which a referendum is conducted under subsection (b) or (c) of this section whenever the Secretary determines that such suspension or termination is